

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

BILLY CRESPO RIVERA,

Plaintiff,

v.

T-MOBILE PUERTO RICO LLC; JOHN DOES
1-100,

Defendants.

CIVIL NO. 22-1353

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

COMES NOW the Defendant T-Mobile Puerto Rico LLC (“T-Mobile PR” or “Defendant”), without waiving any applicable defense or objection,¹ and as authorized by 28 U.S.C. §§ 1441 & 1446, and 28 U.S.C. § 1331, hereby respectfully provides notice of its removal of the above-captioned case from the Puerto Rico Court of First Instance, Aguadilla Part, to the United States District Court for the District of Puerto Rico. The grounds for removal are as follows:

I. INTRODUCTION

1. On June 10, 2022, Plaintiff Billy Crespo Rivera filed a complaint before the Puerto Rico Court of First Instance, Aguadilla Part, under the caption: Billy Crespo Rivera v. T-Mobile Puerto Rico LLC; Fulanos de Tal 1-100, Civil Case No. AG2022CV00873 (“the State Action”). See Complaint, Exhibit A hereto.

2. On June 23, 2022, T-Mobile PR was formally served with process by the Plaintiff in the State Action. See Summons, Exhibit B hereto.

¹ “A party who removes an action from a state to a federal court does not thereby waive any of his or her Federal Rule 12(b) defenses or objections.” Wright, Miller, Kane et al., 5C Fed. Prac. & Proc. Civ. § 1395 (3d ed.)(Supp. 2013).

II. REMOVAL

3. Under 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending.”

4. The United States District Court for the District of Puerto Rico has original jurisdiction over the State Action under 28 U.S.C. § 1331. Pursuant to 28 U.S.C. § 1331, “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

Federal Question Jurisdiction

5. In the State Action, Plaintiff asserts claims under two federal laws: the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12181 et seq. and Section 504 of the Rehabilitation Act of 1973 (“Rehabilitation Act”), 29 U.S.C. § 794.

6. A federal question is presented on Plaintiff’s State Action and his right to relief depends on the resolution of a substantial question of federal law. Plaintiff asserts claims under federal laws ADA and the Rehabilitation Act. As such, jurisdiction is based on a federal question pursuant to 28 U.S.C. § 1331.

Removal Procedure

7. Under 28 U.S.C. § 1446(b), the notice of removal must be filed with this Court within thirty (30) days after the receipt by defendant of the initial pleading through service or otherwise. Under 28 U.S.C. § 1446(a), the notice shall be accompanied by “a copy of all process, pleadings, and orders served upon” the removing defendant.

Timely Filing

8. T-Mobile PR’s filing of the present Notice of Removal is timely. The thirty (30) day period provided by § 1446(b), triggered by formal service of process on June 23, 2022, expired

on Saturday, July 23, 2022. Nevertheless, given that the last day of the period is a Saturday, “the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday” Fed.R.Civ.P. 6(a)(1), which is Tuesday, July 26, 2022, since Monday, July 25, 2022, is a holiday pursuant to this Court’s Notice from the Clerk No. 21-09.

Appropriateness of this Court to Entertain the Removal

9. Pursuant to 28 U.S.C. §§ 1441(a) and 1391, the U.S. District Court for the District of Puerto Rico is the appropriate federal court to entertain the removed action. See 28 U.S.C. § 119.

Complete Record for Removal

10. Pursuant to 28 U.S.C. § 1446(a), attached to this Notice are copies and certified translations of the following documents: (i) Complaint, Exhibit A; and (ii) Summons, Exhibit B. No other process, pleading, nor order has been served upon T-Mobile PR in the State Action.

Notice to Adverse Parties and State Court

11. Promptly after the filing of this Notice, T-Mobile PR will file a copy with the Clerk of the Court of First Instance, Aguadilla Part, and will provide written notice thereof to Plaintiff in compliance with 28 U.S.C. § 1446(d)

WHEREFORE, notice is hereby given that the State Action is removed from the Puerto Rico Court of First Instance, Aguadilla Part, to the U.S. District Court for the District of Puerto Rico pursuant to 28 U.S.C. §§ 1441 and 1446.

RESPECTFULLY SUBMITTED.

WE HEREBY CERTIFY that on this same date a true and exact copy of this Notice of Removal and the Exhibits hereto have been served by mail upon José Carlos Vélez Colón (counsel of record for Plaintiff in the State Action) at his postal address: 421 Ave. Muñoz Rivera Apt. #205, San Juan, Puerto Rico 00918-3115 and by e-mail at vlq@velezlawgroup.com. Moreover, a copy of this Notice of Removal will be filed as an attachment to an Informative Motion

before the Puerto Rico Court of First Instance, Aguadilla Part, through the SUMAC electronic filing system.

In San Juan, Puerto Rico, this 26th day of July 2022.

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